

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

_____)	
BBY SOLUTIONS, INC.,)	Civil Action No. _____
)	
Plaintiff,)	
)	
v.)	<u>COMPLAINT</u>
)	
Martin Hanania d/b/a Geek Squad)	
Computer Help, Geek Squad Computer)	(Jury Trial Demanded)
Repair, Geeks Quad Computer Help and)	
website4everybody.com)	
)	
Defendant.)	
_____)	

The Plaintiff, BBY SOLUTIONS, INC., by way of complaint against the Defendants, states and alleges as follows:

1. BBY Solutions, Inc. ("BBY Solutions") is a Minnesota corporation having its principal place of business in Richfield, Minnesota, and therefore is deemed a citizen of the State of Minnesota. BBY Solutions, a wholly-owned subsidiary of Best Buy Enterprise Solutions, Inc., which is a wholly-owned subsidiary of Best Buy Co., Inc., (collectively "Best Buy"), owns the intellectual property at issue herein. Best Buy, a multi-national consumer electronics retailer, owns and operates GEEK SQUAD®, a 24 hour computer support service and North America's largest technology support organization.

2. Defendant Martin Hanania owns and operates a computer repair service, which he advertises under the name "Geek Squad Computer Help," "Geek Squad

Trademarks
2,744,658
1,943,643

Computer Repair,” “Geeks Quad Computer Help,” and variations thereof, as well as “Website4everybody.com,” having his principal place of business at 5658 Etiwanda Ave. Apt. 7, Tarzana, California 91356. Upon information and belief, Defendant Martin Hanania resides at 5658 Etiwanda Ave. Apt. 1, Tarzana, California 91356.

3. This cause of action arises under the Federal Trademark Act, 15 U.S.C. §§ 1051 - 1127. Jurisdiction is founded on 28 U.S.C. §§ 1331, 1338 and 1367 as well as 15 U.S.C. § 1121. Jurisdiction is also founded on 28 U.S.C. § 1332 because this is a civil action where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

COUNT I
FEDERAL TRADEMARK INFRINGEMENT

4. BBY Solutions is the owner of federal trademark Registration Nos. 2,744,658 for the mark GEEK SQUAD® and 1,943,643 for the mark GEEK SQUAD® (+ design) (collectively the “GEEK SQUAD Marks”). The registrations were issued in compliance with the law. True and correct copies are attached hereto. (Exhibit A) The GEEK SQUAD Marks are incontestable under 15 U.S.C. § 1065.

5. Best Buy and its predecessors in interest have continuously used the GEEK SQUAD Marks in interstate commerce for computer services including, but not limited to, computer installation and repair, design of computers, computer software and computer networks since 1994. The GEEK SQUAD Marks are each distinctive, and each generates a strong following and recognition among consumers.

6. Since 1994, Best Buy and its predecessors in interest have given notice of its rights in the GEEK SQUAD Marks by using the appropriate designation symbol in connection with each mark.

7. Best Buy and its predecessors in interest, through continuous and uninterrupted use of the GEEK SQUAD Marks, have earned a reputation for knowledgeable and courteous customer service, as well as quality products. This reputation, goodwill, and name recognition have been derived, in part, from its commitment to service, satisfaction, and quality. Its reputation, goodwill, trademarks, and name recognition are valuable assets to Best Buy. Indeed, Best Buy was recently listed in Fortune Magazine's March 21, 2011 issue as one of Fortune's 50 most admired companies.

8. Best Buy and its predecessors in interest have invested a substantial amount of money and effort in advertising and promoting the GEEK SQUAD Marks. Best Buy's substantial promotional, advertising, publicity, and public relations activities further promote the recognition and goodwill associated with its GEEK SQUAD Marks. These activities include television, print media, billboard, online, radio, newspaper advertisements, outdoor mobile advertising, such as on GEEK SQUAD® branded vehicles, and any and all other advertising media.

9. Defendant began using the name Geek Squad, and variations thereof, in violation of Best Buy's rights long after Best Buy and its predecessors in interest first

used the GEEK SQUAD Marks. A Google search for “Geek Squad Valencia Ca” returns Defendant’s business, “Geek Squad Computer Help” Santa Clarita at 661-551-1002, as the first search result. (Exhibit B) Said telephone number is associated with Defendant. An online directory lists the telephone number 323-205-2138, which is associated with Defendant, under the name “Geek Squad Computer.” (Exhibit C) Another online directory lists “Geeks Quad Computer Help” in Valencia, California. That listing includes a telephone number of 661-675-4578, which is also associated with Defendant. (Exhibit D) A Yahoo! Local search lists a “Geek Squad Computer Help – Bell Gardens” in California, with a telephone number of 323-639-4588. (Exhibit E) Said telephone number is associated with Defendant. Defendant also lists his computer repair business phone number, 818-392-0980, under “Geek Squad Computer Repair Reseda” and “PC Repair” which states “we are your leading indistry[sic] of the Geek Squad.” (Exhibit F) Moreover, Defendant’s www.website4everybody.com uses the GEEK SQUAD Marks. (Exhibit G)

10. Defendant also registered the internet domain names www.geeksquadcomputerhelp.net, www.geek-squad-pc-repair.net, www.geeksquadpcrepair.com, www.geeksquadcomputerhelp.com, www.geeksquadcomputergenius.net, and www.geedquadcomputergenius.com to drive business to his computer repair business in violation of Best Buy’s rights.

11. Additionally, upon information and belief, Defendant has a history of hijacking legitimate business internet listings by associating his business numbers with the legitimate company's directory listings or company name to direct customers to his business. For example, on one web forum Defendant, Martin Hanania, is accused of hijacking legitimate locksmith company's Google Maps and Yahoo Local listings by inserting his phone number and website in their listings to drive customers to his business. The posted complaint reads as follows:

Check the listings in Los Angeles. Besides the standard scam company operations as Locksmiths-Los Angeles, MyLocksmithUSA and others, we are currently dealing with the Google Maps listings being "hijacked" by a guy named **Martin Hanania**. He operates three or more FAKE locksmith scam operations. In & Out Locksmith, Locksmith-Pros and RC Locksmith. This criminal has stolen DOZENS of real, legitimate locksmith listings and inserted his own phone numbers and website links. He has FLOODED Google Maps with hundreds of spam listings for these fake companies and is linked to many rip-offs. His creepy, sketchy, UNLICENSED fake locksmiths have even used the company names of REAL locksmiths. (Bold emphasis added)

12. Defendant has had constructive notice of Best Buy's rights through Best Buy's use of the ® symbol in connection with its GEEK SQUAD Marks since before Defendant began his infringing use. Additionally, Defendant has been made aware of Best Buy's prior rights in the GEEK SQUAD Marks. Plaintiff sent Defendant a cease and desist letter on August 24, 2010, via email. Plaintiff also sent a follow up email via Defendant's "contact us" form on his website on October 4, 2010. A responsive email was received from Defendant in November 2010, where Defendant offered to sell to Best

Buy his infringing “Geek Squad” domain names for \$5,000 because, as Defendant put it, “the value of the traffic I get I made that [\$5,000] easily” by using the “geek squad” domain names he registered.

13. Defendant continues to infringe Best Buy’s GEEK SQUAD Marks. Defendant was aware of Best Buy’s prior use of the GEEK SQUAD Marks when he decided to use “Geek Squad Computer Help,” “Geek Squad Computer,” “Geek Squad Computer Repair,” “Geeks Quad Computer Help” and register the “Geek Squad” domain names, including, but not limited to: geeksquadcomputerhelp.net, geek-squad-pc-repair.net, geeksquadpcrepair.com, geeksquadcomputerhelp.com, geeksquadcomputergenius.net, and geedquadcomputergenius.com. Best Buy was forced to file a complaint with the National Arbitration Forum under the Uniform Domain Name Dispute Resolution Policy to obtain Defendant’s “Geek Squad” domain names.

14. These activities have caused, and are continuing to cause, actual confusion in the marketplace. This actual confusion has further damaged the reputation and goodwill embodied in Best Buy’s GEEK SQUAD Marks. Defendant is aware of such actual confusion and has used such confusion for financial gain.

15. The Defendant has used marks confusingly similar to Best Buy’s federally-registered GEEK SQUAD Marks in connection with the advertising, promotion, and/or sale of goods or services identical to, or closely related to, the goods or services of Best Buy without the consent of Best Buy in a manner which is likely to cause confusion, to

cause mistake, or to deceive as to source or origin among purchasers and/or users of those goods or services.

16. The Defendant's actions constitute trademark infringement under 15 U.S.C. § 1114. Defendant's actions were taken in willful, deliberate, and/or intentional disregard of Best Buy's rights, which makes this case exceptional under the Lanham Act.

17. Best Buy has been damaged by Defendant's actions in an amount exceeding \$75,000, exclusive of interest and costs. If the acts of Defendant are allowed to continue, Best Buy will continue to suffer irreparable injury for which it has no adequate remedy at law.

COUNT II
FEDERAL UNFAIR COMPETITION

18. The cause of action set forth herein arises under the Lanham Act of the United States, 15 U.S.C. §§ 1051 - 1127.

19. BBY Solutions repeats and realleges paragraphs 1-17 in Count I.

20. The Defendant's acts constitute a willful false designation of origin and misrepresentation in violation of 15 U.S.C. § 1125(a).

COUNT III
COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR
COMPETITION

21. This cause of action arises under Minnesota's common law of trademark infringement and unfair competition, and other state laws where Defendant is conducting his activities. Jurisdiction is founded upon 28 U.S.C. §§ 1332 and 1338 or alternatively,

under supplemental jurisdiction as stated in 28 U.S.C. § 1367 or upon principles of pendent and ancillary jurisdiction. The amount in controversy exceeds \$75,000, exclusive of interest and costs.

22. BBY Solutions repeats and realleges the foregoing paragraphs 1-20.

23. Defendant's activities complained of constitute infringement of BBY Solutions' common law rights in the state of Minnesota, and other states where Defendant is conducting his activities, and unfair competition.

24. Defendant's actions have been conducted maliciously, deliberately, and intentionally to divert sales from Best Buy and inflict injury on Best Buy.

COUNT IV
DECEPTIVE TRADE PRACTICES ACT

25. This cause of action arises under Minnesota's Deceptive Trade Practices Act, Minn. Stat. § 325D.44 et seq.

26. BBY Solutions repeats and realleges the foregoing paragraphs 1-24.

27. Defendant's activities complained of constitute violations of the Minnesota Deceptive Trade Practices Act, Minn. Stat. § 325D.44 et seq.

COUNT V
VIOLATION OF ANTI-CYBERSQUATTING CONSUMER PROTECTION ACT
15 U.S.C. § 1125(d)

28. This cause of action arises under the Anti-Cybersquatting Consumer Protection Act – 15 U.S.C. § 1125(d).

29. BBY Solutions repeats and realleges the foregoing paragraphs 1-27.

30. Defendant's activities complained of constitute violation of under the Anti-Cybersquatting Consumer Protection Act – 15 U.S.C. § 1125(d).

31. Defendant, in bad faith, registered and used several domain names, including, but not limited to: geeksquadcomputerhelp.net, geek-squad-pc-repair.net, geeksquadpcrepair.com, geeksquadcomputerhelp.com, geeksquadcomputergenius.net, and geedquadcomputergenius.com, which are confusingly similar to Best Buy's GEEK SQUAD Marks.

32. Defendant's registration and use of the domain names as described above constitutes cyberpiracy and trademark infringement of BBY Solutions distinctive GEEK SQUAD® trademark in violation of Section 43(d) of the Lanham Act, 15 U.S.C. § 1125(d).

33. As a result of Defendant's above-described conduct, BBY Solutions has suffered and continues to suffer damages including, without limitation, the loss of revenue BBY Solutions would have made but for Defendant's acts, in an amount to be proven at trial.

34. Defendant's acts of cyberpiracy have also caused and are causing irreparable injury to BBY Solutions and to the business reputation and goodwill represented by BBY Solutions and its GEEK SQUAD® mark.

35. Plaintiff brought a UDRP action with the National Arbitration Forum against Defendant for the aforementioned domain names, which resulted in said domain

names being transferred to Plaintiff from Defendant; however, Defendants acts caused damages and irreparable injury to Plaintiff.

COUNT VI
UNJUST ENRICHMENT

36. BBY Solutions repeats and realleges the foregoing paragraphs 1-35.

37. Defendant's activities complained of constitute unjust enrichment of Defendant at Best Buy's expense.

WHEREFORE, BBY SOLUTIONS, INC. prays that the Court enter an order:

A. Preliminarily and permanently enjoining and restraining the Defendant, his directors, officers, agents, servants, employees, subsidiaries, affiliates, and all persons in active concert or participation with, through, or under Defendant ("Defendant's Affiliates"), at first during the pendency of this action and thereafter perpetually:

1. from committing any acts of unfair competition and from implying a false designation of origin or a false description or representation with respect to BBY Solutions' GEEK SQUAD Marks;
2. from committing any acts of unfair competition by passing off or inducing or enabling others to sell or pass off goods or services which are not Best Buy's goods or services as those of Best Buy;
3. from using in any manner packaging, labels, signs, literature, display cards, business cards, or other packaging, advertising, or promotional materials, or websites, domain names, listing or other materials or listings related to the

Defendant's goods or services, bearing the words "Geek," "Geek Squad," "Geek Squad Computer," "Geek Squad Computer Repair," "Geek Squad Computer Help," "Geeks Quad Computer" or any other mark, word, or name confusingly similar to BBY Solutions' GEEK SQUAD Marks;

4. from making any statements on promotional materials, Internet webpages or advertising for the Defendant's goods or services which are false or misleading as to source or origin; and
5. from committing any acts of deceptive or unlawful trade practices calculated to cause members of the trade or purchasing public to believe that Defendant's goods or services are the goods or services of Best Buy or sponsored by or associated with, or related to, or connected with, or in some way endorsed or promoted by Best Buy under the supervision or control of Best Buy.

B. An order requiring that the Defendant deliver up to BBY Solutions any and all containers, signs, packaging materials, printing plates, and advertising or promotional materials and any materials used in the preparation thereof, which in any way unlawfully use or make reference to "Geek," "Geek Squad," "Geek Squad Computer," "Geek Squad Computer Repair," "Geek Squad Computer Help," "Geeks Quad Computer" and any other mark, word, or name confusingly similar to BBY Solutions' GEEK SQUAD Marks in connection with Defendant's goods or services.

C. An order requiring Defendant and Defendant's Affiliates to immediately disconnect without providing forwarding information and permanently stop using the telephone numbers: 661-675-4578, 661-551-1002, 323-639-4588, 818-392-0980 and 323-205-2138 and to either transfer those numbers to BBY Solutions or return them back to the telephone company, and to remove from any and all directories any affiliation between said phone numbers and "Geek," "Geek Squad," "Geek Squad Computer," "Geek Squad Computer Repair," "Geek Squad Computer Help," "Geeks Quad Computer" and all variations thereof that are confusingly similar to Best Buy's GEEK SQUAD Marks;

D. An order requiring Defendant to transfer ownership of any of his domain names using or referencing the phrase "Geek" or "Geek Squad," any variation thereof or which contain phrases confusingly similar to BBY Solutions' GEEK SQUAD Marks to BBY Solutions and to prohibit Defendant and Defendant's Affiliates from ever registering any domain names incorporating, in any way, "Geek Squad," any variations thereof or which contain phrases confusingly similar to BBY Solutions' GEEK SQUAD Marks.

E. An order requiring that Defendant, within thirty (30) days after service of notice of entry of judgment or issuance of an injunction pursuant thereto, file with the Court and serve upon the BBY Solutions' counsel a written report under oath setting

forth details of the manner in which Defendant has complied with the Court's order pursuant to paragraphs A-D above.

F. An order requiring Defendant to account and pay over to BBY Solutions all damages sustained by Best Buy, including loss of goodwill, Defendant's profits, BBY Solutions' attorneys fees, and costs, and ordering that the amount of damages awarded BBY Solutions be increased three times the amount thereof.

G. An order prohibiting Defendant or Defendant's Affiliates from establishing, using or advertising any telephone number affiliated with or advertised as having a connection to "Geek," "Geek Squad," "Geek Squad Computer," "Geek Squad Computer Repair," "Geek Squad Computer Help," "Geeks Quad Computer" or any word or phrase confusingly similar to BBY Solutions' Geek Squad Marks.

H. Awarding BBY Solutions such other relief as the Court may deem just and proper.

BBY SOLUTIONS, INC.,

By its attorneys,

Dated: March 10, 2011

s/Thomas J. Leach
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